



DONALD J. RENDALL, JR.
Vice President and General Counsel

Direct Dial Number:
(802) 655-8420
rendall@greenmountainpower.biz

August 24, 2005

Susan M. Hudson, Clerk
Vermont Public Service Board
112 State Street
Drawer 20
Montpelier, VT 05620-2701

Re: Procedural Issues Associated with Implementation of Act 61

Dear Ms. Hudson:

In response to your memorandum dated August 1, 2005, requesting written comments concerning the above referenced subject, Green Mountain Power Corp. offers the following. The questions posed in your memorandum are repeated in caps prior to each of our responses.

HOW DO THE VARIOUS ASPECTS OF ACT 61 INTERACT WITH EACH OTHER AND WITH REAL-WORLD SITUATIONS CURRENTLY FACING VERMONT UTILITIES AND OTHER AFFECTED PARTIES?

The strongest connection between sections of Act 61 is that between Sec. 3 (Mandatory RPS) and Sec. 4 (the "SPEED" alternative, REC's). For example, Vermont utilities may not know until July 1, 2012, whether the statewide target defined in Sec. 4 has been met, nullifying Sec. 3. If the target is not met, Sec. 3 takes effect no later than July 1, 2013. One year is a short time in the practical world of power supply planning. The language of Act 61, however, gives the Board broad discretion in the implementation of Secs. 3 and 4. Similarly, the implementation of a tradeable REC program is closely related to the RPS. We suggest that as a procedural matter Secs. 3 and 4 be treated as a single section in the development of rules or orders implementing Act 61.

Sec. 1 (Goals) and Sec. 2 (Definitions) interact with all other sections of Act 61. The goals articulated in the bill suggest a stronger preference for renewable sources than that articulated in prior law. The definitions in Sec. 2 apply to terms used throughout Act 61. Some of the terms defined are new to Title 30. An early part of the process leading to implementation of Act 61 should be creation of a mechanism to obtain a consensus understanding of what these new terms

mean in the context of the entire law. The distinction between “qualifying” and “non-qualifying” SPEED resources is an example of this need.

The most significant “real-world” situation facing Green Mountain Power is the relatively near-term expiration of certain long term power contracts that now make up a majority of the company’s power supply portfolio. Secs. 3 and 4 of Act 61 contain certain escape ramps. The interaction between these escape ramps and an electric utility’s broader power supply responsibilities under Title 30 is an important procedural question. This linkage was implicitly recognized in Act 61 by the inclusion in the bill (Sec. 3 and Sec. 10) of two required reports to the General Assembly about Vermont utilities’ long term power supply plans.

Another “real world” fact of life is that commercial wind farms are proving difficult to site in Vermont, notwithstanding the General Assembly’s commitment to renewable energy resources as expressed in Act 61. We recommend that the Agency of Natural Resources be invited to participate in proceedings leading to the implementation of Act 61 to provide help to reconcile policies relating to siting of renewable energy generation in Vermont.

Sec. 5 (VEDA financing) and Sec. 7 (interconnection standards) interact with the renewable energy development contemplated by Sec. 3 and Sec. 4, but likely deserve no special attention in the implementation process for Act 61, other than appropriate timing for the technical proceedings needed to develop the interconnection standards.

We suggest that implementation of changes in the Energy Efficiency Utility (EEU) law contained in Sec. 6 of Act 61, including the elimination of the legislative spending cap, be the subject of a separate annual proceeding to establish the most cost-effective and reasonable energy efficiency charge.

The Board’s memorandum suggests that Sec. 8 and Sec. 9 of Act 61, related to transmission planning are excluded from your request for comment regarding procedural issues.

It appears that Sec. 10 (reports to General Assembly by DPS), Sec. 12 (commercial building energy standards), Sec. 13 (reports to General Assembly by the Board) and Sec. 15 (more reports to General Assembly by DPS) are stand alone requirements that do not require an integrated implementation process. Sec. 14 regarding coop membership is a self-executing provision.

Sec. 11 of Act 61 allows the Board to initiate alternative regulation proceedings on its own motion. Sec. 13 requires that the Board report to the General Assembly by 1/15/07 regarding the status of alternative regulation implementation. As a procedural matter, Green Mountain Power recommends that any such proceedings initiated by the board should be separate proceedings from those designed to implement Act 61. We further recommend that these proceedings be undertaken on a utility by utility basis. As reported to the Board on previous occasions, GMP and the DPS are engaged in discussions regarding the opportunities presented by alternative regulation for GMP and its customers.

HOW SHOULD THE BOARD DIVIDE THE VARIOUS IMPLEMENTATION TASKS UP AMONG PROCEEDINGS?

The RPS/SPEED/REC law is new. The EEU law has been modified. This suggests a natural division of implementation tasks between these two cornerstones of Act 61. There is some overlap with respect to the treatment of combined heat and power (CHP) projects, but otherwise it seems that implementation of RPS/SPEED/REC and implementation of a revised EEU program should proceed on separate tracks.

As noted in the Board's August 1 memorandum, the Board has initiated proceedings to address integrated transmission planning.

HOW CAN THE BOARD ENSURE COORDINATION AMONG THE VARIOUS PROCEEDINGS? ARE CERTAIN ITEMS SO CLOSELY RELATED THAT COORDINATION IS ESSENTIAL? IF SO, HOW SHOULD THIS TAKE PLACE?

As noted above, implementation of the RPS and the SPEED/REC program are so closely related that they should be done in a single proceeding. Interconnection standards for distributed generation and a system of tradable credits probably can be stand alone proceedings, but coordination with the RPS/SPEED/REC proceeding will be essential. We suggest that a Board staff person, familiar with the broad range of issues addressed by Act 61 should be given responsibility for identifying overlap among the various proceedings, calling areas of overlap to the attention of participants and, facilitating coordination between proceedings as appropriate.

WHAT PROCEDURES SHOULD THE BOARD USE TO IMPLEMENT THE VARIOUS TASKS?

We recommend a rule-making proceeding to implement the RPS/SPEED/REC provisional Act 61.

Rule making would also be the appropriate implementation tool for defining eligibility for exemption from the energy efficiency charge as well.

The remaining implementation tasks seem more appropriate for workshop-based dockets that lead to Board orders defining the rules of the game, but that will be conducted in the context of contested case proceedings that would be triggered in the event of any unresolved issues.

Prior to the initiation of formal rule making or the opening of dockets, the Board should initiate collaborative discussions, to identify areas of consensus and disagreement about Act 61's provisions and the legislative intent. Part of this work should involve identification of any clarifying legislation that could be enacted during the 2006 session that would make the implementation tasks easier or more productive of the general goals of Act 61.

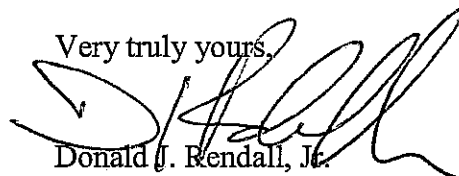
WHAT SCHEDULES SHOULD THE BOARD FOLLOW IN THE VARIOUS PROCEEDINGS, KEEPING IN MIND THOSE DEADLINES THAT ARE SPECIFIED IN THE STATUTE? HOW SHOULD THE BOARD PRIORITIZE THE PROCEEDINGS IF THERE ARE RESOURCE CONSTRAINTS?

Schedules should be set based on the time needed to accomplish the required tasks in a disciplined and complete manner. If more time than allowed in Act 61 is needed for implementation and that need can be demonstrated, we would suggest follow-on legislation extend the existing deadlines.

We believe the highest priority should be consideration and implementation of the RPS/SPEED/REC provisions, while recognizing that sections 10, 12 and 15 require reports by January, 2006.

ANY OTHER PROCEDURAL ISSUES PARTIES WOULD LIKE TO BRING TO THE BOARD'S ATTENTION.

Processes that allow for maximum participation by interested parties. Long term success will depend on all interested parties being thoroughly heard and their views seriously considered. This must be balanced against the important goals of minimizing costs associated with regulatory proceedings and avoiding diversion of limited regulatory and utility resources from the fundamental responsibilities of providing safe, adequate and reliable service to customers at just and reasonable rates.

Very truly yours,

Donald J. Rendall, Jr.